

# **Logic in Law**

PHIL 203, Spring 2022

MWF 1–1:50pm, Haury Building 129

Instructor: Ding (Zhiyuan Li), they/them<sup>1</sup> and she/her

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Office: Social Sciences 138

Office hours: Tu 1:30–3:30pm, and by appointment

## **1. Course Overview and Objectives**

This course examines logical reasoning and conceptual analysis in the law, with a focus on the U.S. Supreme Court’s interpretation of the equal protection and due process requirements of the 14th Amendment. Topics will include deductive reasoning, analogical reasoning, conceptual analysis, stare decisis, the shadow docket, racial discrimination, affirmative action, sex discrimination, LGBTQ+ discrimination, and reproductive freedom.

## **2. Expected Learning Outcomes**

My expectations are, at the conclusion of this course, you will be able to

1. Charitably interpret and critically assess philosophical arguments in the law;
2. Construct and respond to counterexamples;
3. Compose a well-reasoned, original argumentative essay that critically examines an argument in a U.S. Supreme Court opinion;
4. Discuss how philosophical reflection may shed light on contested legal and moral issues in a divided contemporary society such as the United States;
5. Discuss how conceptual tools may help to clarify and express minority experiences that are otherwise masked by oppressive social structures.

## **3. COVID-Related Course Policies**

### *3.1. Face Coverings*

In accordance with the university’s updated mask guidance of August 11, 2021, **everyone, regardless of vaccination status, is required to wear a face covering over their nose, mouth and chin in our classroom**. The CDC provides a useful guide on how to select a mask: <https://www.cdc.gov/coronavirus/2019-ncov/prevent-getting-sick/about-face-coverings.html>.

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1. If you are not familiar with the use of “they” as a singular pronoun, I encourage you to check out this helpful guide from the APA Style blog: <https://apastyle.apa.org/blog/singular-they>.

The Disability Resource Center is available to explore the range of face coverings and accessible considerations if you believe that your disability or medical condition precludes you from utilizing any face covering or mask option.

### *3.2. Please Stay Home Whenever Appropriate*

**You should *not* come to class if you are sick or have been in close contact with someone who is sick.** If you suspect you might have contracted or have been exposed to COVID-19, please self-isolate immediately and contact Campus Health for testing and medical care (call 520-621-9202 before you visit). The relevant CDC guidelines are available at <https://www.cdc.gov/coronavirus/2019-ncov/if-you-are-sick/index.html>.

For course policies on excused absences, please see § 6. For course policies on late assignments, extensions and make-ups, please see § 7.

## **4. Required Texts**

All required readings will be made available digitally through D2L, including an open-access casebook that we'll be using:

- Ruthann Robson, *Liberty, Equality, and Due Process: Cases, Controversies, and Contexts in Constitutional Law*, 3d ed. (2021), <https://www.cali.org/books/liberty-equality-and-due-process-cases-controversies-and-contexts-constitutional-law>. (The pdf version is available for free. You can also order a hard copy at a reasonable cost.)

## **5. Assessment**

|                          |     |
|--------------------------|-----|
| Participation            | 20% |
| Midterm and Final Essays | 55% |
| Final Exam               | 25% |

All required assignments must be completed in order to pass this course. **An F received on any work due to academic dishonesty is grounds for an F in the course.**

### *5.1. Grade Scheme*

The University of Arizona Standard Letter Grade Scheme will apply:

|   |               |   |                 |
|---|---------------|---|-----------------|
| A | 90% and above | D | 60%–69.9%       |
| B | 80%–89.9%     | E | 59.9% and below |
| C | 70%–79.9%     |   |                 |

Requests for incomplete (I) or withdrawal (W) must be made in accordance with university policies, which are available at <http://catalog.arizona.edu/policy/grades-and-grading-system>.

### *5.2. Participation*

The class will be discussion-based, so it's important that everybody actively participates in in-class discussions, activities, and close readings.

In advance of each class, please be sure to read the assigned text *carefully* and *critically* (remember to bring a copy with you so we can look at specific passages together). It's useful to keep in mind that both philosophical and legal writing is, at bottom, *argumentative*—that is, its goal is to *defend* or *criticize* a particular view. As you do the readings,

- Keep track of what the author says they mean by a particular term or distinction, and take note of terms and distinctions that don't quite make sense to you.
- Identify the view the author is defending and the argument they are offering in support of their view (be careful to distinguish passages where the author is speaking for themselves and where they are explaining another author's view or considering objections!), and write down thoughts and questions in the margin as you react to each step in the argument.
- Ask yourself if you think what the author is saying is not only plausible but well-argued. If not, think about why not: Is it because the author's argument relies on a false premise, or is it because the author's reasoning is fallacious? Is there a more plausible or more arguable way of making the point the author hopes to make? Are there countervailing considerations, alternative positions, or further complications that the author fails to take into account? Even if you agree with the author, try to anticipate objections that other readers may reasonably raise and think about how you can respond to them on the author's behalf.

Class participation will make up 20% of your final grade.

### *5.3. Midterm and Final Essays*

You will be asked to write a midterm essay and a final essay for this class. Each essay should be 3–4 pages long, and I will distribute instructions two weeks in advance of the due date.

The better of your two essays will make up 30% of your final grade, and the other one 25%.

### *5.4. Final Exam*

There will be a comprehensive final exam consisting of short answer and short essay questions. It is scheduled for **Monday, May 9, from 1 to 3pm** in our usual classroom. If you have another exam scheduled for the same time, please contact me as soon as you can to arrange for a make-up.

The final exam will make up 25% of your final grade.

## **6. Excused Absences**

Please email me if there is a reason you can't come to class, but you *don't* need to show me any kind of documentation. This is an honor system, and I trust you not to abuse it—all I ask is you also be flexible and considerate when you are in a position of power to do so.

The UA policy concerning class attendance, participation, and administrative drops is available at <http://catalog.arizona.edu/policy/class-attendance-participation-and-administrative-drop>.

The UA policy regarding absences for any sincerely held religious belief, observance or practice will be accommodated where reasonable: <http://policy.arizona.edu/human-resources/religious-accommodation-policy>.

Absences preapproved by the UA Dean of Students (or the Dean's designee) will be honored; see <http://policy.arizona.edu/employmenthuman-resources/attendance>.

## **7. Late Assignments, Extensions and Make-Ups**

No late assignments will be accepted, but an extension will normally be granted as long as you (1) have a clear plan for completing the assignment and (2) let me know your plan by email **no later than 6 hours before the deadline** (unless the delay is justified). Likewise, there is *no* need to show me any kind of documentation.

As an instructor, I always appreciate students asking for extensions ahead of time when possible. Make-ups for missed assignments after the fact are generally disfavored, and will be granted only to accommodate unexpected and other extraordinary situations. We can always work something out, but it's important that you contact me as soon as you can.

## **8. Academic Integrity**

### *8.1. Code of Academic Integrity*

Students are encouraged to share intellectual views and discuss freely the principles and applications of course materials. However, graded work/exercises must be the product of independent effort unless otherwise instructed. Students are expected to adhere to the UA Code of Academic Integrity as described in the UA General Catalog. See <http://deanofstudents.arizona.edu/academic-integrity/students/academic-integrity>.

### *8.2. Plagiarism*

**I view plagiarism as a very serious violation of the university's Code of Academic Integrity, and you should as well.** I strongly encourage you to review this helpful guide prepared by the university library: <https://new.library.arizona.edu/research/citing/plagiarism>. If you have any questions after reading it, please don't hesitate to ask me.

### *8.3. Inappropriate Use of Class Notes and Course Materials*

**Disseminating class notes or course materials beyond the classroom community, such as selling them to other students or to a third party for resale, is strictly prohibited.** Violations to this rule are subject to the Code of Academic Integrity and may result in course sanctions. Additionally, students who use D2L or UA email to sell or buy such notes or course materials are subject to Student Code of Conduct violations for misuse of student email addresses. This misconduct may also constitute copyright infringement.

## **9. Respect, Support and Care for One Another**

### *9.1. Materials in This Course*

Since many of the issues we will cover in this course are not only intellectually but also *personally* relevant, you might find it difficult to read and discuss certain course materials. I want to acknowledge that. It's perfectly understandable.

It's therefore important that we *respect, support and care for* one another throughout the course. Please always feel free to talk to me if you anticipate certain topics will be especially difficult for you, or if you think the way they get discussed in the class is disrespectful or otherwise problematic.

### *9.2. How to Respect, Support and Care for One Another*

Here are some concrete examples of how you can respect, support and care for your classmates and instructor:

#### *Class Discussions*

- Value everyone's contribution to class discussions;
- Disagree in a way that takes other people's ideas seriously and sincerely;
- Challenge remarks, jokes and examples that are racist, sexist, heterosexist, cissexist, misogynistic, transmisogynistic, xenophobic, ableist, ageist, classist, etc.;
- Keep discussions inclusive by avoiding talking to only a few specific people.

#### *Classroom Behavior*

- Try to remain quiet if you have to arrive late or leave early;
- Avoid starting to pack things up until class is completely over;
- Listen attentively and avoid distracting or interrupting behavior, such as chatting with the person next to you or checking your phone.

### *Gender Identity and Sexual Orientation*

- Use the pronouns and name you are asked to when you refer to a person;
- Avoid assuming a person's pronouns, gender identity or sexual orientation based on their appearance, voice or name;
- Be careful not to disclose anyone's gender identity or sexual orientation (i.e., out them) without their permission, even if they are already out in the classroom—it can put lives in danger;
- Never inquire about anyone's genitalia, deadname, "before" photos, medical history, assigned gender at birth, sex life, and so on;
- Use inclusive language (for helpful examples, see <https://www.apaonline.org/page/nonsexist> and <https://transjournalists.org/style-guide>).

If you feel any aspect of this course makes it difficult for you to participate fully, I want to know. This is *very* important to me.

### *9.3. University Statements on Classroom Behavior, Discrimination, Harassment, and Threatening Behavior*

To foster a positive learning environment, students and instructors have a shared responsibility. We want a safe, welcoming, and inclusive environment where all of us feel comfortable with each other and where we can challenge ourselves to succeed. To that end, our focus is on the tasks at hand and not on extraneous activities (e.g., texting, chatting, reading a newspaper, making phone calls, web surfing, etc.).

The University of Arizona is committed to creating and maintaining an environment free of discrimination. In support of this commitment, the University prohibits discrimination, including harassment and retaliation, based on a protected classification, including race, color, religion, sex, national origin, age, disability, veteran status, sexual orientation, gender identity, or genetic information. For more information, including how to report a concern, please see <http://policy.arizona.edu/human-resources/nondiscrimination-and-anti-harassment-policy>.

Our classroom is a place where everyone is encouraged to express well-formed opinions and their reasons for those opinions. We also want to create a tolerant and open environment where such opinions can be expressed without resorting to bullying or discrimination of others.

The UA Threatening Behavior by Students Policy prohibits threats of physical harm to any member of the University community, including to oneself. See <http://policy.arizona.edu/education-and-student-affairs/threatening-behavior-students>.

## **10. Student Support Resources**

### *Campus Health Services*

- Campus Health: <https://health.arizona.edu>
- Counseling and Psych Services (CAPS): <https://health.arizona.edu/counseling-psych-services>
- Mental Health Tools from CAPS: <https://health.arizona.edu/mental-health-tools>

### *Crisis Resources*

- National Suicide Prevention Lifeline: call 800-273-TALK (8255) or chat online at <https://suicidepreventionlifeline.org/chat>
- National Sexual Assault Hotline: call 800-656-HOPE (4673) or chat online (English and Spanish) at <https://www.rainn.org/resources>
- Love Is Respect (dating abuse helpline for youth between 13 and 26): call 866-331-9474, text “LOVEIS” to 22522 or chat online at <https://www.loveisrespect.org/get-help>
- Trevor Lifeline (for LGBTQ+ youth under 25): call 866-488-7386, or text “START” to 678-678 or chat online at <https://www.thetrevorproject.org/get-help-now>
- Trans Lifeline (operators are all trans/nonbinary people): call 877-565-8860 (English and Spanish)
- CAPS Crisis Resources, Hotlines and Apps: <https://health.arizona.edu/crisis-resources-and-hotlines>

### *Student Assistance*

- Dean of Students Office Student Assistance Services: <https://deanofstudents.arizona.edu/support/student-assistance>
- Survivor Advocacy: <https://survivoradvocacy.arizona.edu>
- Fostering Success: <https://fosteringsuccess.arizona.edu>

### *Academic Advising*

- Find Your Philosophy Advisor: <https://philosophy.arizona.edu/advising>
- Become a Philosophy Major: <https://philosophy.arizona.edu/why-study-philosophy>

### *Writing*

- Think Tank Writing Center: <https://thinktank.arizona.edu/writing-center>
- Writing Skills Improvement Program: <https://wsip.arizona.edu>

### *Food Security*

- Campus Pantry: <https://campuspantry.arizona.edu>

### *Child Care*

- UA Childcare Choice Program for Students: <https://lifework.arizona.edu/programs/childcare-choice/student>

### *LGBTQ+*

- List of Resources from the Office of LGBTQ Affairs: <https://lgbtq.arizona.edu/students>

### *Disability*

- Disability Resource Center: <https://drc.arizona.edu/>

## **11. Accessibility and Accommodations**

At the University of Arizona, we strive to make learning experiences as accessible as possible. If you anticipate or experience barriers based on disability or pregnancy, please contact the Disability Resource Center (520-621-3268, <https://drc.arizona.edu/>) to establish reasonable accommodations.

## **12. Syllabus Change**

Information contained in the course syllabus, other than the grade and absence policy, may be subject to change with advance notice, as deemed appropriate by the instructor.

## **13. (Lack of) Diversity in Philosophy**

Unfortunately, philosophy as an institutionalized discipline is remarkably white, cis male, straight, and able-bodied. This lack of diversity is often apparent just from the topics and authors typically taught in introductory philosophy courses. However, philosophy as a whole is becoming more and more diverse thanks to the efforts of several generations of philosophers. As a philosophy student, you can also help the profession address its diversity and inclusiveness problems by seriously engaging with minority authors and supporting your fellow minority students.

The American Philosophical Association (APA) has a useful handout for minority undergraduate students in philosophy, which you can read here: [https://www.apaonline.org/resource/resmgr/diversity/Advice\\_for\\_Undergrads.pdf](https://www.apaonline.org/resource/resmgr/diversity/Advice_for_Undergrads.pdf).

A valuable local opportunity is the Arizona Feminist Philosophy Graduate Conference organized annually by graduate students at the UA Department of Philosophy. The conference takes place in

the spring semester. It brings together graduate students working on feminist issues from around the country and the world. You can find more information and watch recordings of past talks at <https://femphilaz.com>.

## **14. Tentative Schedule**

### **Introduction**

Jan 12 (W)     *United States v. Higgs*, 592 U.S. \_\_\_\_ (2021)

### **Philosopher's Toolbox**

#### *Deductive and Inductive Reasoning*

- |            |   |
|------------|---|
| Jan 14 (F) | Russ Shafer-Landau, "Moral Reasoning," in <i>A Concise Introduction to Ethics</i> (2020)                        |
| Jan 17 (M) | Martin Luther King Day (no class)   |
| Jan 19 (W) | Shafer-Landau (cont.)   |
| Jan 21 (F) | Irving M. Copi, Carl Cohen, and Kenneth McMahon, "Analogical Reasoning," in <i>Introduction to Logic</i> (2014) |
| Jan 24 (M) | Copi et al. (cont.)   |

#### *Conceptual Analysis and the Use of Hypotheticals*

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|------------|---|
| Jan 26 (W) | Judith Jarvis Thomson, "A Defense of Abortion," <i>Philosophy &amp; Public Affairs</i> (1971) |
| Jan 28 (F) | Thomson (cont.)   |
| Jan 31 (M) | Thomson (cont.)   |

### **Applications to the Law**

- |           |  |
|-----------|--|
| Feb 2 (W) | U.S. Constitution, Article III; Amendments I–X, XIII–XV, XIX<br>SCOTUSblog, "Supreme Court Procedure," <a href="https://www.scotusblog.com/reference/educational-resources/supreme-court-procedure">https://www.scotusblog.com/reference/educational-resources/supreme-court-procedure</a><br>Video: Justice Breyer's Crash Course on Supreme Court Procedure, 00:00–24:05,<br><a href="https://youtu.be/i9RPOQjlGKQ">https://youtu.be/i9RPOQjlGKQ</a> |
|-----------|--|

#### *Racial Discrimination*

- |           |  |
|-----------|--|
| Feb 4 (F) | <i>Plessy v. Ferguson</i> (1896)<br><i>Hirabayashi v. United States</i> (1943)<br><i>Korematsu v. United States</i> (1944) |
| Feb 7 (M) | <i>Brown v. Board of Education</i> (1954)<br><i>Bolling v. Sharpe</i> (1954)   |

|            |  |
|------------|--|
|            | <i>Brown v. Board of Education (II)</i> (1955) |
|            | <i>Cooper v. Aaron</i> (1958)                  |
| Feb 9 (W)  | <i>Loving v. Virginia</i> (1967)               |
| Feb 11 (F) | <i>Yick Wo v. Hopkins</i> (1886)               |
|            | <i>Washington v. Davis</i> (1976)              |
|            | <b>Midterm essay assigned</b>                  |

### *Affirmative Action*

|            |  |
|------------|--|
| Feb 14 (M) | <i>Regents of the University of California v. Bakke</i> (1978)   |
| Feb 16 (W) | <i>Grutter v. Bollinger</i> (2003)   |
|            | <i>Gratz v. Bollinger</i> (2003)   |
| Feb 18 (F) | <i>Fisher v. University of Texas</i> (2013)  |
|            | <i>Fisher v. University of Texas (II)</i> (2016)   |
| Feb 21 (M) | <i>Parents Involved in Community Schools v. Seattle School District No. 1</i> (2007)   |
| Feb 23 (W) | In <i>Schuette v. Coalition to Defend Affirmative Action, Integration and Immigrant Rights and Fight for Equality By Any Means Necessary</i> (BAMN) (2014): <ul style="list-style-type: none"> <li>• Justice Sotomayor's Dissenting Opinion</li> <li>• Chief Justice Roberts's Concurring Opinion</li> </ul> |

### *Sex Discrimination*

|            |   |
|------------|---|
| Feb 25 (F) | <i>Bradwell v. Illinois</i> (1873)  |
|            | <i>Muller v. Oregon</i> (1908)  |
|            | <i>Goesaert v. Cleary</i> (1948)  |
|            | <i>Hoyt v. Florida</i> (1961)   |
|            | <b>Midterm essay due at the beginning of class</b>  |
| Feb 28 (M) | Pauli Murray and Mary Eastwood, "Jane Crow and the Law: Sex Discrimination and Title VII," <i>George Washington Law Review</i> (1965), pp. 232–42 |
| Mar 2 (W)  | <i>Reed v. Reed</i> (1971)  |
|            | <i>Frontiero v. Richardson</i> (1973)   |
|            | <i>Craig v. Boren</i> (1976)  |
| Mar 4 (F)  | <i>Califano v. Webster</i> (1977)   |
|            | <i>Mississippi University for Women v. Hogan</i> (1982)   |
| Mar 7 (M)  | Spring break (no class)   |
| Mar 9 (W)  | Spring break (no class)   |
| Mar 11 (F) | Spring break (no class)   |
| Mar 14 (M) | <i>United States v. Virginia</i> (1996)   |

|            |   |
|------------|---|
| Mar 16 (W) | <i>Geduldig v. Aiello</i> (1974)<br><i>Michael M. v. Superior Court of Sonoma County</i> (1981)   |
| Mar 18 (F) | Catharine A. MacKinnon, <i>Sexual Harassment of Working Women: A Case of Sex Discrimination</i> (1979), chapter 5   |
| Mar 21 (M) | MacKinnon (cont.)   |
| Mar 23 (W) | In <i>Toomey v. Arizona</i> , No. 4:19-cv-00035 (D. Ariz.): <ul style="list-style-type: none"> <li>• Motion for Preliminary Injunction (Sept. 1, 2020)</li> <li>• Report and Recommendation on Preliminary Injunction (Nov. 30, 2020)</li> <li>• Plaintiff's Objection to Report and Recommendation (Dec. 4, 2020)</li> <li>• Order Denying Preliminary Injunction (Feb. 26, 2021)</li> </ul> |
| Mar 25 (F) | <i>Toomey</i> (cont.)   |
| Mar 26–27  | <b>The 3rd Annual Arizona Feminist Philosophy Graduate Conference</b> (Tucson, AZ), hybrid in-person/Zoom, <a href="https://femphilaz.com">https://femphilaz.com</a><br>Keynote speakers: Robin Dembroff (Yale) and Eva Kittay (SUNY Stony Brook)   |

### *Reproductive Freedom*

|            |  |
|------------|--|
| Mar 28 (M) | <i>Griswold v. Connecticut</i> (1965)<br><i>Roe v. Wade</i> (1973)<br><i>Doe v. Bolton</i> (1973)  |
| Mar 30 (W) | <i>Planned Parenthood v. Casey</i> (1992)  |
| Apr 1 (F)  | <i>Casey</i> (cont.)<br><b>Final essay assigned</b>  |
| Apr 4 (M)  | <i>Whole Woman's Health v. Hellerstedt</i> (2016)  |
| Apr 6 (W)  | <i>Juno Medical Services v. Russo</i> (2020)   |
| Apr 8 (F)  | <i>Dobbs v. Jackson Women's Health Organization</i> , No. 19-1392 (U.S. argued Dec. 1, 2021)   |
| Apr 11 (M) | In <i>Whole Woman's Health v. Jackson</i> : <ul style="list-style-type: none"> <li>• District Court Order Denying Motions to Dismiss (Aug. 25, 2021)</li> <li>• District Court Order on Motion to Stay Case and Vacate Preliminary Injunction Hearing (Aug. 27, 2021)</li> <li>• 5th Circuit Order Granting Administrative Stay and Denying Motion to Expedite Appeal (Aug. 27, 2021)</li> <li>• 5th Circuit Order Denying Emergency Relief (Aug. 29, 2021)</li> <li>• Supreme Court Order Denying Emergency Relief (Sept. 1, 2021)</li> </ul> <p>Stephen Vladeck, Testimony before the Committee on the Judiciary, U.S. Senate, Sept. 29, 2021, <a href="https://www.judiciary.senate.gov/imo/media/doc/Vladeck%20testimony1.pdf">https://www.judiciary.senate.gov/imo/media/doc/Vladeck%20testimony1.pdf</a>, pp. 2–4, 22–30</p> |

- Apr 13 (W)    *Whole Woman's Health v. Jackson*, 595 U.S. \_\_\_\_ (2021)  
                  *United States v. Texas*, 595 U.S. \_\_\_\_ (2021) (per curiam)  
Order on Petitioners' Application to Issue Judgment Forthwith, *Whole Woman's Health v. Jackson*, Nos. 21A220, 21-463 (U.S. Dec. 16, 2021)

*Physician-Assisted Suicide*

- Apr 15 (F)    In-class viewing: *How to Die in Oregon* (2011), directed by Peter Richardson, 107 min  
**Final essay due at the beginning of class**
- Apr 18 (M)    Brief for Ronald Dworkin, Thomas Nagel, Robert Nozick, John Rawls, Thomas Scanlon, and Judith Jarvis Thomson as Amici Curiae in Support of Respondents, *Washington v. Glucksberg*, 521 U.S. 702 (1997) (No. 96-110), *Vacco v. Quill*, 521 U.S. 793 (1997) (No. 95-1858)
- Apr 20 (W)    *Washington v. Glucksberg* (1997)  
*Vacco v. Quill* (1997)

*Slippery Slope to Same-Sex Marriage?*

- Apr 22 (F)    *Bowers v. Hardwick* (1986)
- Apr 25 (M)    *Lawrence v. Texas* (2003)
- Apr 27 (W)    *Lawrence* (cont.)
- Apr 29 (F)    *United States v. Windsor* (2013)
- May 2 (M)    *Obergefell v. Hodges* (2015)

**Conclusion**

- May 4 (W)    Last day of class
- May 9 (M)    Final exam, 1–3pm, in our usual classroom**